

Atty Rindlisbacher, Curtis D. (for Teresa Gooding – Administrator – Petitioner)

(1) Second and Final Report of Administrator, Petition for Settlement of Account,
 (2) for Allowance of Compensation to Administrator and Attorneys for Ordinary
 and Extraordinary Services and (3) for Final Distribution and (4) Reimbursement of
 Costs [Prob. C. 11622, 10810, 10830]

DOD: 09/03/2009		TERESA GOODING , daughter and Administrator appointed on 2/2/2011 with Limited IAEA Authority with funds deposited into a blocked account, is Petitioner. Account Period: 10/01/2012- 09/11/2013 Accounting - \$96,066.20 Beginning - \$92,386.04 POH - \$49,806.18 Administrator - \$1,927.09 (Statutory is \$3,773.65) (Pursuant to Order of 03/27/2013 petitioner was paid \$1,846.56, leaving a balance of \$1,927.09) Attorney - \$1,927.09 (Statutory is \$3,773.65) (Pursuant to Order of 03/27/2013 attorney was paid \$1,846.56, leaving a balance of \$1,927.09) X/O - \$5,140.50 (16.35 Paralegal hours @ \$100/hr and 12.30 Attorney hours @ \$285/hr for the sale of real property) Court Costs (Attorney) - \$1,306.50 (certified copies, publication, filing fees) Court Costs (Petitioner) - \$340.50 (publication, certified copies) Closing Reserve - \$1,000.00 <u>Please see additional page</u>	NEEDS/PROBLEMS/COMMENTS:
Cont. from			
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<input type="checkbox"/>	FTB Notice		

Reviewed by: LV
Reviewed on: 10/24/2013
Updates:
Recommendation:
File 1 – Sanchez

Petitioner requests an Order that:

- Petitioner be authorized to withdraw from Umpqua Bank, Account number ***7369 the sum of \$1,927.09 payable to Teresa Gooding as payment of the balance of statutory compensation for services as administrator of the estate;
- Petitioner be authorized to withdraw from Umpqua Bank, account ***7369 the sum of \$1,927.09 payable to Perkins, Mann & Everett, Incorporated as payment of balance of statutory compensation for services to Petitioner and to the estate;
- Petitioner be authorized to withdraw from Umpqua Bank, account ***7369 the sum of \$1,306.50 payable to Perkins, Mann & Everett, Incorporated as reimbursement for costs advanced;
- Petitioner to be authorized to withdraw from Umpqua Bank, account ***7369 the sum of \$340.50 payable to Teresa Gooding as reimbursement for costs advanced;
- Petitioner be authorized to withdraw from Umpqua Bank, account ***7369 the sum of \$5,140.50 payable to Perkins, Mann & Everett, Incorporated as payment of extraordinary compensation for services to Petitioner and to the estate;
- Grants the final distribution requested in the Petition as set forth above and authorizes Petitioner to withdraw from Umpqua Bank, account ***7369 the sum of \$38,164.50 payable as follows:
 - **ROBERT DANIEL FARMER – \$6,360.75**
 - **SHARON JUNE FARMER – \$6,360.75**
 - **JAMES TERRANCE FARMER – \$6,360.75**
 - **TERESA AUGUSTUS GOODING – \$6,360.75**
 - **WILLIAM FREDERICK HAPP – \$6,360.75**
 - **RICKY VILLANUEVA – \$6,360.75**

Needs/Problems/Comments

The Attorney's Declaration Re: Extraordinary Fees includes items that may need clarification.

This estate was the beneficiary of a 1/3 interest in real property owned by the Thomas Sanchez estate, case no. 12CEPR00797. Attorney Linda Durost was the attorney handling Thomas Sanchez's estate in a Petition to Determine Succession. The Petition passed a 1/3 interest in the real property to this decedent's estate and the other 2/3 interest to Gloria Maldonado and Andrew Sanchez (who are not beneficiaries of this estate).

Extra Ordinary fees request includes fees with respect to the Petition to Determine Succession to Real Property filed by Attorney Linda Durost for the estate of Thomas Sanchez and includes correspondences, review of documents and attending the hearing. It is unclear why Mr. Rindlisbacher needed to be involved and attend the hearing when another attorney was handling that matter.

DOD: 4-28-12			SUMANUS ANTHONY CHONTONG , Son and Administrator with Full IAEA without bond, is Petitioner. Accounting is waived. I&A: \$175,834.65 POH: \$163,111.57 (\$25,065.59 is cash) Administrator (Statutory): Waived Attorney (Statutory): Pursuant to agreement, attorney fees will be paid on agreed hourly rates, not to exceed statutory sum of \$6,275.04. Costs: \$460.50 (filing, certified letters) Distribution pursuant to intestate succession: Sumanus Anthony Chontong: Entire estate	NEEDS/PROBLEMS/COMMENTS:
	Aff.Sub.Wit.			
✓	Verified			
✓	Inventory			
✓	PTC			
✓	Not.Cred.			
✓	Notice of Hrg			
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	Video Receipt			
	CI Report			
✓	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
✓	FTB Notice			
			Reviewed by: skc	
			Reviewed on: 10-24-13	
			Updates:	
			Recommendation: SUBMITTED	
			File 2 – Chontong	

Atty Georgeson, C. Russell; Noyes, Christopher B., of Georgeson, Belardinelli & Noyes (for
Petitioner Edmund Nolte, Jr.)

Atty Sullivan, Jr., Robert L., of McCormick Barstow (for Respondent Marjorie A. Nolte, Trustee)

**Petitioner's Notice of Motion for Order Compelling Respondent Marjorie Nolte to
Provide Further Responses to Request for Production of Documents, Set No. 1 and
for an award of Monetary Sanctions**

Edmund Sr. DOD: 12/13/2006		EDMUND V. NOLTE, JR. , son and Trust Beneficiary, is Movant.	NEEDS/PROBLEMS/ COMMENTS:										
Rosetta DOD: 5/7/2009													
		Movant moves the Court for an order compelling Respondent MARJORIE A. NOLTE , Trustee, to provide further responsive documents pursuant to Code of Civil Procedure § 2031.310; <i>Motion</i> is made on the grounds that the discovery sought is relevant to the subject matter if the action, is reasonably calculated to lead to the discovery of admissible evidence, and is relevant to assist Movant in evaluating his case, preparing for trial, and evaluating settlement.	Note: Minute Order dated 6/20/2013 in the related matter of the <i>Petition for Recovery of Trust Property and Account</i> filed by the instant Movant Edmund V. Nolte, Jr., set that matter for a Status Hearing on 11/22/2013 . Minute Order states Mr. Noyes requested the matter be set for trial, and Court Trial was set for 3/11/2014 with a three day estimate.										
Cont. from		Movant states Respondent has refused to meet her statutory obligations relative to Movant's request for Production of Documents No.'s 1 – 32 by including irrelevant objections, failing to provide complete responses, and failing to produce all responsive documents.	1. Need proposed order pursuant to Local Rule 7.1.1 (F) [providing that a proposed order shall be submitted with all pleadings that request relief.										
<input type="checkbox"/>	Aff.Sub.Wit.		<table border="1"> <tr><td colspan="2">Reviewed by: LEG</td></tr> <tr><td colspan="2">Reviewed on: 10/25/13</td></tr> <tr><td colspan="2">Updates:</td></tr> <tr><td colspan="2">Recommendation:</td></tr> <tr><td colspan="2">File 3 – Nolte</td></tr> </table>	Reviewed by: LEG		Reviewed on: 10/25/13		Updates:		Recommendation:		File 3 – Nolte	
Reviewed by: LEG													
Reviewed on: 10/25/13													
Updates:													
Recommendation:													
File 3 – Nolte													
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<input type="checkbox"/>	Citation												
<input type="checkbox"/>	FTB Notice												

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Edmund Noltes' Motion for Order Compelling Respondent Marjorie Nolte to Provide Further Responses to Request for Production of Documents filed 9/25/2013, continued:

Motion is based on the following:

- The **Notice of Motion**;
- **Memorandum of Points and Authorities in Support of Petitioner's Motion for Order Compelling Respondent Marjorie Nolte to Provide Further Responses to Request for Production of Documents, Set No. 1 and for an Award of Monetary Sanctions** filed 9/25/2013;
- **Declaration of Christopher B. Noyes in Support of Motion for Order Compelling Respondent Marjorie Nolte to Provide Further Responses to Request for Production of Documents, Set No. 1 and for an Award of Monetary Sanctions** filed 9/25/2013;
- **Separate Statement in Support of Petitioner's Motion for Order Compelling Respondent Marjorie Nolte to Provide Further Responses to Request for Production of Documents, Set No. 1** filed 9/25/2013;
- **Petitioner's Request for Judicial Notice in Support of Petitioner's Motion for Order Compelling Respondent Marjorie Nolte to Provide Further Responses to Request for Production of Documents, Set No. 1 and for an Award of Monetary Sanctions** filed 9/25/2013;
- The Court's record and files in this action; and
- Upon such other materials as may be presented prior to the Court's ruling on this Motion.

Trustee Marjorie A. Nolte's Separate Statement in Response to Petitioner's Motion for Order Compelling Respondent Marjorie Nolte to Provide Further Responses to Request for Production of Documents, Set No. 1 was filed 10/17/2013.

Declaration of David L. Emerzian in Support of Opposition to Motion for Order Compelling Respondent Marjorie Nolte to Provide Further Responses to Request for Production of Documents, Set No. 1 and for an Award of Monetary Sanctions was filed 10/17/2013.

Request for Judicial Notice in Support of Opposition to Motion for Order Compelling Respondent Marjorie Nolte to Provide Further Responses to Request for Production of Documents, Set No. 1 and for an Award of Monetary Sanctions was filed 10/17/2013.

Memorandum of Points and Authorities in Support of Opposition to Motion for Order Compelling Respondent Marjorie Nolte to Provide Further Responses to Request for Production of Documents, Set No. 1 and for an Award of Monetary Sanctions was filed 10/17/2013.

Reply [of Edmund V. Nolte, Jr.] in Support of Petitioner's Motion for Order Compelling Respondent Marjorie Nolte to Provide Further Responses to Request for Production of Documents, Set No. 1 and for an Award of Monetary Sanctions was filed 10/22/2013.

Atty Boyajian, Thomas M., sole practitioner (for Petitioner Carl John Peterson, former spouse)
 Atty Shahbazian, Steven L., sole practitioner (Limited-Scope Representation on 10/8/2013 for Objector Kimbra Pannett, daughter)

**Second Amended Petition for Probate of Lost Will and for Letters Testamentary;
 Authorization to Administer Under IAEA (Prob. C. 8002, 10450)**

DOD: 2/21/2013		CARL JOHN PETERSON , former spouse and first named Executor without bond, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
			<p>Note: Notice of Limited Scope Representation filed 10/3/2013 indicates Attorney Shahbazian will represent Kimbra Pannett at the hearing on 10/8/2013, and does not indicate Ms. Pannett will be represented any further by Mr. Shahbazian than at that hearing.</p> <p>Continued from 10/8/2013. Minute Order states a copy of Mr. Shahbazian's objections are provided to Mr. Boyajian in open court. Matter continued to 10/29/2013.</p> <p>Note for background: Minute Order dated 8/20/2013 states the Court indicates to the parties that it will expect a declaration and/or live testimony at the next hearing addressing the issues regarding the subscribing witnesses and the presumption relating to the destruction of a will. The Court advises the parties that it will entertain a petition for special letters for the maintenance of the property.</p> <p>Note: If Petition is granted, Court will set status hearings as follows:</p> <ul style="list-style-type: none"> Friday, December 6, 2013 at 9:00 a.m. in Dept. 303 for filing of proof of bond, if Court requires posting of bond. Friday, March 28, 2014 at 9:00 a.m. in Dept. 303 for filing of inventory and appraisal; and Friday, January 2, 2015 at 9:00 a.m. in Dept. 303 for filing of first account and/or petition for final distribution. <p>Pursuant Local Rule 7.5, if the documents noted above are filed 10 days prior to the dates listed, the hearings will be taken off calendar and no appearance will be required.</p> <p align="center"><i>~Please see additional page~</i></p>
Cont. from 070213, 082013, 100813		Full IAEA – o.k.	
✓	Aff.Sub.Wit.		
✓	Verified	Lost Will dated: 06/19/2012	
	Inventory		
	PTC		
	Not.Cred.	Residence: Clovis	
✓	Notice of Hrg	Publication: The Business Journal	
✓	Aff.Mail	W/	
✓	Aff.Pub.		
Sp.Ntc.		Estimated value of the Estate:	
		Personal property - \$434,000.00	
		Real property - \$325,000.00	
Pers.Serv.		Total: - \$759,000.00	
Conf. Screen			
✓	Letters	Probate Referee: Steven Diebert	
✓	Duties/Supp		
✓	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
		Reviewed by: LEG	
		Reviewed on: 10/25/13	
		Updates:	
		Recommendation:	
		File 4 - Gomes	

NEEDS/PROBLEMS/COMMENTS, continued:

1. *Second Amendment to Petition for Probate of Lost Will* filed 10/21/2013 seeks to probate the Decedent's Will dated 6/19/2012 as a lost Will. Petitioner states in the *Explanatory Declaration* filed 7/31/2013 that "the original statutory Will of the Decedent is not in the possession of the Petitioner at the moment and is not available." Probate Code § 6124 provides if the testator's Will was last in the testator's possession, the testator was competent until death, and neither the Will nor a duplicate original of the Will can be found after the testator's death, it is presumed that the testator destroyed the Will with intent to revoke it. This presumption is a presumption affecting the burden of producing evidence. If the proponents of the Will introduce no contrary evidence, the Court should find that the Will was revoked. *Second Amendment to Petition* filed 10/21/2013 does not include any statements by the Petitioner as proponent of the lost Will to support a finding that Decedent's Will was merely lost and was not likely destroyed and/or revoked by the Decedent.
2. Petitioner is a resident of South Dakota. The Court may require bond if the proposed personal representative resides outside California or for other good cause, even if the will waives bond, pursuant to California Rule of Court 7.201(b) and Probate Code § 8571.
3. If Court grants the petition for probate of Decedent's Will as a "lost" Will, pursuant to Probate Code § 8223 need revised proposed order containing the provisions of the lost Will (i.e., a copy of the Will attached to the order with a signature line included on the last page of the Will for the Court's approval.)
4. Proposed letters submitted by Petitioner have been altered with whiteout at Item 2, and do not indicate that Petitioner will be appointed as executor of Decedent's "lost" Will. Need revised proposed letters.

Objection and Memorandum of Kimbra Pannett to Decedent's Purported Will filed 10/3/2013 states:

- She is an interested person as defined in Probate Code § 48(a) as a daughter of the Decedent;
- From review of the pleadings on file, including the "Explanatory Declaration" filed on behalf of Petitioner Carl John Peterson on 7/31/2013, and the subscribing witness declarations attached as Attachment A, it appears that the primary issue to be addressed and which the Court has raised is the "presumption of revocation" under Probate Code § 6124 of the Decedent's Will submitted to probate;
- A review of the declarations filed on behalf of the admission of said Will (contained in the "Explanatory Declaration") confirms the statutory factors that are consistent with "revocation" of the purported Will dated 6/19/2012, submitted to probate, [as follows]:
 - (a) No person other than the testator Natalie Gomes is alleged to have "possession" of the Will until her death;
 - (b) Testator was competent throughout, to the "observations" of the subscribing witnesses;
 - (c) The purported Will presented for probate is, in fact, a copy, i.e., a photocopy, of the purported original Will; by their declarations submitted in support of the Will for admission to probate, the subscribing witnesses have supported the Will's presumptive revocation;

~Please see additional page~

Objection and Memorandum of Kimbra Pannett filed 10/2/2013, continued:

- In reference to the first two grounds noted above (the Will was last in testator's possession, or at least, not in anyone else's possession while the testator was "competent"), there have been no contrary statements or evidence presented to contradict the application of Probate Code § 6124;
- The assertion in both declaration that the document being submitted is a "copy/duplicate of the Statutory Will" *[cites to declarations omitted]* confirms the statutory revocation of the Will;
- In the case of *Lauermann v. Superior Court* (2005) *[citations omitted]*, the Appellate Court held that the meaning of the term "duplicate original" as used in Probate Code § 6124 does not *[emphasis in original]* include a photocopy not personally executed by the testator and witnesses;
- Therefore, the actual "Will" attached to the petition for probate is not a "duplicate original" but just a disqualified "copy;"
- Based upon the pleadings on file in this matter, and the clear application of California law set forth herein, it is requested that the Court find that the purported Will presented for probate on the Petition for Probate filed 5/20/2013 is not the Will of the testator and that said purported Will has been destroyed pursuant to Probate Code § 6124.

Age: 6		<u>NO TEMPORARY REQUESTED</u>		NEEDS/PROBLEMS/COMMENTS:	
		CECILIA RODRIGUEZ , mother, is Petitioner.		<u>CONTINUED FROM 09/25/13</u>	
		Father: CHRYSTIAN RODRIGUEZ – deceased		1. Need proof of service by mail at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Guardian of the Estate</i> <u>or</u> Consent & Waiver of Notice <u>or</u> Declaration of Due Diligence for:	
Cont. from 091213, 092513		Mother: CECILIA RODRIGUEZ		<ul style="list-style-type: none"> - Martin Rodriguez (paternal grandfather) - Lorena Rodriguez (paternal grandmother) - Roberto Altamirano (maternal grandfather) - Terecita Tomas (maternal grandmother) 	
	Aff.Sub.Wit.		Paternal grandfather: MARTIN RODRIGUEZ		
✓	Verified		Paternal grandmother: LORENA RODRIGUEZ		
	Inventory		Maternal grandfather: ROBERTO ALTAMIRANO		
	PTC		Maternal grandmother: TERCITA TOMAS		
	Not.Cred.		Petitioner states the minor's father was killed in a car accident on 11/20/12.		
✓	Notice of Hrg		The minor is entitled to death benefits in the amount of \$40,000.00. The insurance company will not release the money until it receives an order appointing the guardian of the estate of the minor beneficiary.	Note: Proof of service attached to Notice of Hearing filed 10/15/13 is not complete. It is not signed, nor does it indicate a date of mailing or if mailing was completed.	
	Aff.Mail	x		2. The Petition was filed with a Fee Waiver, the Court filing fees will be due to the court when insurance proceeds are received.	
	Aff.Pub.				
	Sp.Ntc.				
	Pers.Serv.				
✓	Conf. Screen				
✓	Letters				
✓	Duties/Supp				
	Objections				
	Video Receipt				
	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
✓	UCCJEA				
	Citation				
	FTB Notice				
				<u>Estimated Value of the Estate:</u>	
				Personal property - \$40,000.00	
				<u>Note:</u> If the Petition is granted, status hearings will be set as follows:	
				<ul style="list-style-type: none"> • Friday, 12/06/13 at 9:00 am in Dept. 303 for Receipts of Blocked Account; • Friday, 03/28/14 at 9:00 am in Dept. 303 for filing of the Inventory & Appraisal; • Friday, 12/12/14 at 9:00 am in Dept. 303 for filing of the First Account and Report of Guardian 	
				Reviewed by: JF	
				Reviewed on: 10/24/13	
				Updates:	
				Recommendation:	
				File 5 – Rodriguez	

Atty Kharazi, H. Ty (for Conservator Tom Collins)

Atty Rindlisbacher, Curtis D. (Petitioner/court appointed attorney for conservatee)

Petition for Attorney Fees [Prob. C. 1471, 1472]

			<p>CURTIS D. RIDLISBACHER, petitioner was Court appointed to represent the Conservatee on 8/19/13.</p> <p>TOM COLLINS was appointed Conservator of the Person on 9/18/13.</p> <p>Petitioner requests fees in connection with the representation of the Conservatee for Tom Collins' petition to appoint a conservator.</p> <p>Petitioner asks that he be paid from the conservatorship estate for 12.30 hours @ \$310.00 per hour of attorney time and 1 hour at \$100.00 per hour for paralegal time for a total of \$3,913.00 and costs of \$435.00 for the filing fee.</p> <p>Services are itemized by date and include review of documents, visits with client, and court appearances.</p> <p>Petitioner requests payment of the attorney fees be ordered paid from the living Trust for Marion Weller. Petitioner is informed and believes that Marion Weller has the ability to pay the attorney fees requested. Tom Collins is serving as Trustee of Marion Wellers revocable trust and his petition for appointment as conservator alleges that she has assets sufficient to allow payment by Marion Weller.</p> <p>Petitioner further requests that he be relieved as counsel for the conservatee.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: Fee request includes 1.5 hours (\$465.00) in anticipated time to attend the hearing.</p>
Cont. from				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail	W/O		
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	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			

Reviewed by: KT
Reviewed on: 10/24/13
Updates:
Recommendation:
File 6 – Weller

George S. Adanalian DOD: 4-15-13		<p>SHERRIE URNER is Petitioner.</p> <p>Petitioner states George S. Adanalian created the Trust on 10-5-93 and amended twice on 5-2-10 and 9-17-10. George S. Adanalian died on 4-15-13 and the Trust became irrevocable. He was not married at the time of his death and was not survived by any children, grandchildren, or issue. The First Amendment provides that Petitioner is the beneficiary of 100% of all remaining principal and undistributed income of the trust. The Second Amendment provides that Petitioner shall serve as Successor Trustee. Both amendments were drafted by Attorney Teresa B. Petty.</p> <p>Petitioner states she is the Successor Trustee pursuant to the Second Amendment; however, contrary to such provision, Attorney Louis Pacella mailed a "60-Day Notice to Vacate Premises" dated 6-28-13 to Petitioner in which the attorney stated that he represents Successor Trustee John D. Adanalian. The notice informed Petitioner that the residence in which she lives (Squaw Valley, CA) is owned by the trust and she will be required to quit and surrender possession of the premises to Respondent as landlord. Letter attached as Exhibit C.</p> <p>Petitioner states the principal place of administration is in Fresno County and that pursuant to the First and Second Amendments, she is the beneficiary of the Trust estate, including the residence identified in the letter, and Successor Trustee.</p> <p>Petitioner prays for relief as follows:</p> <ol style="list-style-type: none"> 1. Confirming Petitioner as sole successor trustee; 2. Confirming that Petitioner has all powers as successor trustee; 3. Determining that Petitioner is the beneficiary of the trust; 4. Compelling Teresa B. Petty, Esq., and/or John D. Adanalian to provide Petitioner with a complete copy of the trust; 5. Restraining John D. Adanalian from exercising any powers or privileges as successor trustee; 6. Compelling John D. Adanalian to account for any trust assets collected or received by him; 7. Restraining John D. Adanalian from taking action to remove Petitioner from the real property in Squaw Valley; and 8. For such other and further relief as the Court may deem just, equitable, and proper. <p>SEE ADDITIONAL PAGES</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>OFF CALENDAR</u></p> <p>Amended Petition filed 10-25-13 is set for hearing on 12-9-13.</p>
Aff.Sub.Wit.			
Verified			
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PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
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Objections			
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CI Report			
9202			
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Status Rpt			
UCCJEA			
Citation			
FTB Notice			

Page 2

Opposition to Verified Petition for Order Concerning Internal Affairs of Trust; and Request for Sanctions and Dismissal filed 10-17-13 by John D. Adanian states Petitioner is neither the named successor trustee, beneficiary or heir of the settlor pursuant to the last of three (3) separate and valid amendments, a fact that Petitioner was well aware of at the time of her verification of the petition.

Petitioner's undertaking herein is tactical in nature, designed only to delay an eviction from a residence owned by the trust from which she has been given lawful notice to vacate.

Respondent requests the Court deny and dismiss this petition. Alternatively, Respondent requests the Court grant his relief sought along with sanctions against Petitioner for verifying a petition she knew to be false.

Respondent states the Settlor executed a Third Amendment to the trust on 8-22-11 (attached as Exhibit D) which names Respondent as successor trustee and does not include Petitioner as a beneficiary. The Third Amendment divides the trust estate 20% each to John David Adanian, Simon George Adanian, Monica Dione Crapo, Matthew Joseph Adanian, and Randy Alan Shirinian. Petitioner is not an heir and the petition should be dismissed pursuant to Probate Code §17202.

Respondent states Petitioner and Settlor were not husband and wife, nor were they living together in any domestic capacity. Petitioner is not an heir or blood relative of the Settlor. Petitioner is neither a successor trustee nor beneficiary of the trust. Consequently, Petitioner has no rights pursuant to the Trust and the petition should be dismissed.

Respondent further states Petitioner had knowledge of the Third Amendment prior to her verification of the Petition and sanctions are appropriately awarded to Respondent, with reference to Probate Code §17206.

Respondent states Petitioner was previously represented by Central California Legal Services and by Attorney Bill Keeler, who were aware of the Third Amendment. In a letter from CCLS on 8-29-13, Petitioner requested additional time to remain in the residence. Attorney Keeler contacted Attorney Petty on 9-9-13 and inquired whether there was a Third Amendment, which he was provided with.

Mr. Keeler stated he was unaware that Petitioner was now represented by Attorney Krbechek and had filed the instant petition.

Respondent states that despite her claim to be the sole successor trustee, she has taken no action to administer the trust in accordance with law; specifically, no efforts to file the will, gather and account for trust assets, send notice to heirs, or re-title assets in her own name. Petitioner took absolutely no action until she received a 60 day notice of termination of her tenancy. Petitioner's inaction combined with the filing of this petition only after receiving notice demonstrate that this proceeding is a tactical farce designed only to delay her eviction.

Respondent states he has incurred legal fees and costs as a result of Petitioner's knowingly false verified petition in the amount of \$3,150 and filing costs of \$435. Respondent respectfully asks the Court for an award of sanctions in the amount of \$3,585 against Petitioner due to her false Verified Petition.

Respondent requests the Court Deny and Dismiss the Petition and award sanctions against Petitioner of \$3,585.

Alternatively, Respondent requests an order confirming that the Trust, along with the First, Second, and Third Amendments are valid; confirming that John D. Adanian is the Successor Trustee of the Trust with all rights, powers and privileges thereunder; confirming that the sole beneficiaries of the Trust are John D. Adanian, Simon George Adanian, Monica Diane Crapo, Matthew Joseph Adanian, and Randy Alan Shirinian; and for such other and further relief as the Court deems proper.

Petition for Letters of Administration; Authorization to Administer Under IAEA (Prob. C. 8002, 10450)

DOD: 4/6/1991		<p>PAULA VAUGHN, daughter, is petitioner and requests appointment as Administrator without bond.</p> <p>Full IAEA - not published for</p> <p>Decedent died intestate.</p> <p>Residence: Riverdale Publication: NEED</p> <p>Estimated value of the estate: Real property- \$88,000.00</p> <p>Probate Referee: Steven Diebert</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need waiver of bond from DeAndre Vaughn, bond set at \$88,000.00 or limited IAEA authority. 2. Need Notice of Petition to Administer Estate with proof of service on DeAndre Vaughn (<u>Note:</u> A Notice of Hearing was filed, however Probate Code §8100 requires the Notice of Petition to Administer the Estate be served on all interested parties.) 3. Need publication pursuant to Probate Code §8120. Affidavit of Publication shows publication of the Notice of Hearing. Probate Code §8120 requires the Notice of Petition to Administer the Estate to be published.) <p>Note: If the petition is granted, status hearings will be set as follows:</p> <ul style="list-style-type: none"> • Friday, December 6, 2013 at 9:00 a.m. in Department 303, for the filing of the bond (if required). • Friday, March 28, 2014 at 9:00 a.m. in Department 303, for the filing of the inventory and appraisal. • Friday, January 30, 2015 at 9:00 a.m. in Department 303, for the filing of the first account or petition for final distribution. <p>Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior the date set the status hearing will come off calendar and no appearance will be required.</p>
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
<input type="checkbox"/>	Aff.Mail X		
<input type="checkbox"/>	Aff.Pub. X		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input checked="" type="checkbox"/>	Letters		
<input checked="" type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

DOD: 8/22/13		EVERETT EUGENE BRANTLEY , son, is petitioner. 40 days since DOD. No other proceedings. Will dated 3/30/2009 – Devises entire estate to Petitioner Everett Eugene Brantly. I & A - \$115,000.00 Petitioner requests court determination that Decedent's interest in real property passes to him pursuant to decedent's will.	NEEDS/PROBLEMS/COMMENTS:
Cont. from			
	Aff.Sub.Wit.		
✓	Verified		
✓	Inventory		
	PTC		
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail W/		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: KT
			Reviewed on: 10/24/13
			Updates:
			Recommendation: SUBMITTED
			File 9 – Gary

DOD: 5/24/2013		REBECCA S. ZANINOVICH,	NEEDS/PROBLEMS/COMMENTS:
		daughter/named alternate executor without bond, is petitioner.	
		Named Executor Juanita Leavitt is deceased.	<p>1. #8 of the petition does not list the name and address of the Trustee of the Robert Leavitt and Juanita Leavitt Revocable Living Trust Agreement.</p> <p>2. Need proof of service of the Notice of Petition to Administer the Estate on the Trustee of the Robert Leavitt and Juanita Leavitt Revocable Living Trust Agreement.</p> <p>Note: If the petition is granted, status hearings will be set as follows:</p> <ul style="list-style-type: none"> Friday, March 28, 2014 at 9:00 a.m. in Department 303, for the filing of the inventory and appraisal. Friday, January 30, 2015 at 9:00 a.m. in Department 303, for the filing of the first account or petition for final distribution. <p>Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior the date set the status hearing will come off calendar and no appearance will be required.</p>
Cont. from		Full IAEA – o.k.	
<input type="checkbox"/>	Aff.Sub.Wit.	Will dated 4/14/1997	
<input checked="" type="checkbox"/>	Verified	Residence: Fresno	
<input type="checkbox"/>	Inventory	Publication: Fresno Business Journal	
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail	Estimated value of the estate:	
<input checked="" type="checkbox"/>	Aff.Pub.	Personal property - \$238,545.00	
<input type="checkbox"/>	Sp.Ntc.	Annual income - \$ 5,955.00	
<input type="checkbox"/>	Pers.Serv.	Total - \$244,500.00	
<input type="checkbox"/>	Conf. Screen	Probate Referee: Steven Diebert	
<input checked="" type="checkbox"/>	Letters		
<input checked="" type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

Reviewed by: KT
Reviewed on: 10/24/13
Updates:
Recommendation:
File 10 – Leavitt

		<p>PUBLIC ADMINISTRATOR was appointed on the court's own motion as Successor Administrator on 7/31/13.</p> <p>JULIE FULCHER, ex-wife, was appointed as Administrator with Full IAEA without bond on 8/23/11. Ms. Fulcher was removed and the Public Administrator appointed on 7/31/13.</p> <p>The intestate heirs are the Decedent's two children, one of whom is a minor.</p> <p>Status Report of the Public Administrator filed on 10/17/13 states the Public Administrator has filed a reappraisal of the real property, and a Notice of Proposed Action. The real property is currently going through escrow. The Public Administrator may have to sell the property by short sale due to the liens on the property.</p> <p>The Public Administrator requests that the next status hearing be set no sooner than 90 days from the date of this hearing to allow time to complete the sale of the property and any other outstanding tasks regarding the administration of the estate.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>
Cont. from			
Aff.Sub.Wit.			
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
		<p>Reviewed by: KT</p> <p>Reviewed on: 10/24/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 11 – Fulcher</p>	

12 Ben H. Smith (CONS/PE)
Atty Jaech, Jeffrey A. (for Conservatee)
Atty Amador, Catherine A. (for Michael H. Smith, Sr. – son)
Atty Kruthers, Heather H. (for Public Guardian – Conservator)

Case No. 11CEPR00782

Status Hearing Re: Filing of the Inventory and Appraisal

Age: 85	PUBLIC GUARDIAN was appointed Conservator of the Person and Estate on 01/13/13.	NEEDS/PROBLEMS/COMMENTS: <u>CONTINUED FROM 09/27/13</u> 1. Need Final Inventory & Appraisal <u>or</u> current written status report pursuant to Local Rule 7.5, which states: In all matters set for status hearing, verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.
Cont. from 061813, 081613, 092013, 092713	Inventory & Appraisal, Partial No. 1 filed 05/14/13 - \$0.00	
Aff.Sub.Wit.	<p>Status Conference Statement filed 05/31/13 by Michael H. Smith, Sr. states: The parties are currently awaiting the completion of the Inventory & Appraisal by the Public Guardian. Declarant states that conservatee's grandson, Michael H. Smith, Jr. ("Butch") has failed to provide certain bank account records required by the Public Guardian, despite his previous assurances to the Court that all such records would be provided promptly. Months have passed and these records are needed to determine the use of certain funds belonging to conservatee which were distributed to Butch for the benefit of the conservatee. The Conservator's inability to obtain these records is preventing them from completing the Inventory & Appraisal.</p> <p>Once the Inventory & Appraisal is complete, the parties need to collaborate to divide the community estate belonging to conservatee and his deceased wife, so that her portion of the estate can be distributed according to her estate plan. This work is also being delayed due to the lack of cooperation demonstrated by Butch.</p> <p>Status Report filed 09/26/13 states that delays have occurred due to problems gathering and sorting out data. The attorneys for the various parties have been working diligently to agree, develop and submit the necessary information to the Conservator, but due to some confusion as to "who was supposed to do what" the completion of the Inventory has been sporadic. It now appears that all parties understand who is responsible for what and that the Inventory will be filed soon.</p>	
Verified		
Inventory		x
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: JF Reviewed on: 10/24/13 Updates: Recommendation: File 12 – Smith

			NEEDS/PROBLEMS/COMMENTS: <u>OFF CALENDAR.</u> Inventory and appraisal has been filed.
Cont. from			
	Aff.Sub.Wit.		
	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg		
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: KT Reviewed on: 10/24/13 Updates: Recommendation: File 13 – Smith

Atty Pimentel, Olivia G. (pro per maternal grandmother/guardian)

Atty Garcia, Frances (pro per Petitioner/mother)

Petition for Termination of Guardianship

Olivia age: 13	FRANCES GARCIA, mother, is petitioner.		NEEDS/PROBLEMS/COMMENTS: 1. Need proof of service of the Notice of Hearing on: <ul style="list-style-type: none"> • Father(s) • Paternal grandparents • Maternal grandfather
Jesse age: 12	Olivia Pimentel, maternal grandmother, was appointed guardian of Olivia Garcia and Jesse Garcia on 01/22/07, and as guardian of Irene Jimenez on 9/7/11; personally served on 9/1/13		
Irene age: 10			
Cont. from			
<input type="checkbox"/> Aff.Sub.Wit.			
<input checked="" type="checkbox"/> Verified	Father – Not listed Paternal Grandfather –Not listed		
<input type="checkbox"/> Inventory			
<input type="checkbox"/> PTC	Paternal Grandmother - Not listed		
<input type="checkbox"/> Not.Cred.	Maternal Grandfather – Not listed		
<input checked="" type="checkbox"/> Notice of Hrg			
<input checked="" type="checkbox"/> Aff.Mail	W/	Petitioner states that she is stable now, employed and am ready for her children to be returned to her care.	
<input type="checkbox"/> Aff.Pub.			
<input type="checkbox"/> Sp.Ntc.			
<input type="checkbox"/> Pers.Serv.		Court Investigator, Jennifer Young's Report filed 10/22/13.	
<input type="checkbox"/> Conf. Screen			
<input type="checkbox"/> Letters			
<input type="checkbox"/> Duties/Supp			
<input type="checkbox"/> Objections			
<input type="checkbox"/> Video Receipt			
<input checked="" type="checkbox"/> CI Report			
<input type="checkbox"/> 9202			
<input checked="" type="checkbox"/> Order			
<input type="checkbox"/> Aff. Posting			
<input type="checkbox"/> Status Rpt			
<input type="checkbox"/> UCCJEA			
<input type="checkbox"/> Citation			
<input type="checkbox"/> FTB Notice			
			Reviewed by: KT
			Reviewed on: 10/24/23
			Updates:
			Recommendation:
			File 14 – Garcia & Jimenez

Atty Williams, Jasmine T. (pro per – mother/Petitioner)

Petition for Termination of Guardianship

Xazavier, 14		JASMINE WILLIAMS, mother, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: This Petition pertains to Xazavier only. Maria is now 18 years old. <u>CONTINUED FROM 10/08/13 Minute Order from 10/08/13</u> states: Ms. Williams is appearing via CourtCall. Ms. Williams is informed that notice needs to be provided to the guardian. As of 10/24/13, nothing further has been filed and the following notes remain: 1. Need Notice of Hearing. 2. Need proof of service by mail at least 15 days before the hearing of Notice of Hearing with a copy of the Petition for Termination of Guardianship <u>or</u> Consent & Waiver of Notice <u>or</u> Declaration of Due Diligence for: - Genice Whittle (paternal grandmother) - Darrell Richardson (father) - Paternal grandfather (unknown) - George Williams (maternal grandfather) - Xazavier Williams (minor) - Maria Williams-Richardson (sibling) - Maurice Richardson (sibling)
		GENICE WHITTLE, paternal grandmother, was appointed guardian on 06/11/12.	
		Father: DARRELL RICHARDSON	
Cont. from 100813		Paternal grandfather: UNKNOWN	
✓	Aff.Sub.Wit.	Maternal grandfather: GEORGE WILLIAMS	
✓	Verified	Maternal grandmother: DECEASED	
	Inventory	Petitioner requests that the guardianship be terminated so that Xazavier can have a stable, loving home with her where he won't run away or be picked on.	
	PTC	Court Investigator Dina Calvillo filed a report on 10/02/13.	
	Not.Cred.		
	Notice of Hrg	x	
	Aff.Mail	x	
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
✓	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

Reviewed by: JF
Reviewed on: 10/24/13
Updates:
Recommendation:
File 15 – Williams - Richardson

16 Joe C Souza (Det Succ)
 Atty Souza, Chester Michael (pro per – Petitioner)
 Atty Souza, Bobby Leroy (pro per – Petitioner)
 Atty Ochinero, Virginia (pro per – Petitioner)
 Atty Souza, Carl Wayne (pro per – Petitioner)
 Atty Brown, Marilyn Louise (pro per – Petitioner)
 Atty Souza, Joe Cameron (pro per – Petitioner)
 Atty Souza, John Anthony (pro per – Petitioner)

Case No. 13CEPR00684

Petition to Determine Succession to Real Property (Prob. C. 13151)

DOD: 11/17/11		JOE CAMERON SOUZA, Jr., JOHN ANTHONY SOUZA, CHESTER MICHAEL SOUZA, BOBBY LEROY SOUZA, VIRGINIA OCHINERO, CARL WAYNE SOUZA, and MARILYN LOUISE BROWN, (relationships not stated), are Petitioners. 40 days since DOD. No other proceedings. I & A - \$80,000.00 Decedent died intestate. Petitioners request Court determination that Decedent's interest in real property located at 6533 N. College, Fresno pass to them pursuant to intestate succession.	NEEDS/PROBLEMS/COMMENTS: <u>CONTINUED FROM 09/10/13</u> As of 10/24/13, nothing further has been filed and the following notes remain: <ol style="list-style-type: none"> The Petition is not marked at item 9(a) or 10 (if applicable) concerning the persons who survived the decedent. The Petition is missing attachment 11 which is to state the legal description of the property seeking to be passed and stating the decedent's interest (100% - 50%, etc.) in the property. The Petition states at item 13 that John Anthony Souza and Chester Michael Souza will purchase the property and the sale proceeds will be distributed equally to all 7 children. However, Attachment 13 is to state the specific property interest claimed by each petitioner in the real property. Petitioner does not state the relationship of each Petitioner to the decedent and does not state the interest in the property claimed by each petitioner (undivided 1/7 interest, etc.) Need clarification. The Petition is missing attachment 14 which is to state the names, relationships to decedent, ages, and residence or mailing addresses of all persons named or checked in items 1, 9, and 10, and all other heirs of the decedent. The Petition is not marked at item 17 re: Decedent's estate was under a guardianship/conservatorship at decedent's death. Need Notice of Hearing. Need proof of service by mail at least 15 days before the hearing on all interested parties (any person who should be named in attachment 14). The Order submitted is incomplete and does not state the legal description at item 9(a) and does not state each petitioner's name and specific property interest at 9(b). 	
Cont. from 091013				
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input checked="" type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input type="checkbox"/>	Notice of Hrg			x
<input type="checkbox"/>	Aff.Mail			x
<input type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			
<input type="checkbox"/>	Conf. Screen			
<input type="checkbox"/>	Letters			
<input type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input checked="" type="checkbox"/>	Order			
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			

Reviewed by: JF
Reviewed on: 10/24/13
Updates:
Recommendation:
File 16 – Souza

Carla age: 11	TEMP EXPIRES 10-29-13 BENITO and JENNIE QUINTANA , maternal grandparents, are petitioners. Father (Carla): JUAN CARLOS LUNA – personally served 9-19-13 Father: (Devon, Jeremaiah & Nehemiah): DEVON DUSHON MURPHY – personally served 10-9-13 Mother: ANITA MARIE QUINTANA – consents and waives notice. Paternal grandfather (Carla): Unknown – Declaration of Due Diligence filed 9-10-13 Paternal grandmother (Carla): Irma Morales Paternal grandfather (Devon, Jeremaiah & Nehemiah): George Murphy – served by mail 9-10-13 Paternal grandmother (Devon, Jeremaiah & Nehemiah): Evette Murphy – served by mail 9-10-13 Petitioners state Devon Dushon Murphy's (father) date of release is 9/17/2013. He wrote a letter to the children's mother stating he and she should be raising their children. Therefore, they are afraid that upon his release he will try to take the children. The father was very abusive and controlling. He has abuse the children verbally and emotionally and they are afraid of him. Attached to the petition is Team Decision Meeting (TDM) notes from DSS dated 9/14/12 stating allegations of sexual abuse, substance abuse by the parents, domestic violence and home conditions. The TDM indicates it was agreed that the children would remain with the grandparents and the grandparents would petition for guardianship. Also attached to the Petition is a copy of a protective order restraining Devon (father) from contact with Anita (mother) until 9/14/15. Court Investigator Julie Negrete filed a report on 10-18-13.	NEEDS/PROBLEMS/COMMENTS: 1. If notice is not dispensed, need service of notice of hearing with copy of petition on paternal grandfather of Carla per Probate Code §1511.	
Devon age: 9			
Jeremaiah age: 7			
Nehemiah age: 5			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
✓ Notice of Hrg			
✓ Aff.Mail			W
Aff.Pub.			
Sp.Ntc.			
✓ Pers.Serv.			W
✓ Conf. Screen			
✓ Letters			
✓ Duties/Supp			
Objections			
Video Receipt			
✓ CI Report			
✓ Clearances			
✓ Order			
Aff. Posting			
Status Rpt			
✓ UCCJEA			
Citation			
FTB Notice			

Reviewed by: skc

Reviewed on: 10-24-13

Updates:

Recommendation:

File 17 – Luna & Murphy

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Age: 13 years		<p>THERE IS NO TEMPORARY. No temporary was requested.</p> <p>LUELLA JONES DOUGLAS, non-relative, is petitioner.</p> <p>Father: UNKNOWN (DOMINIC EQUARTE) per DSS report)</p> <p>Mother: UNKNOWN (CHRISTINE COOK) per DSS report)</p> <p>Paternal grandfather: Unknown Paternal grandmother: Unknown (Phyllis Williams per DSS report) Maternal grandparents: Unknown</p> <p>Petitioner states the mother asked her to take the child because she had no food or PG&E and could not get her to school. The minor has been living with her since September 2012.</p> <p>DSS Social Worker Irma Ramirez's report filed on 10/15/13.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> Petition does not include the names and addresses of the parents, paternal grandparents and maternal grandparents, as required. UCCJEA is incomplete. Need the minor's residence information for the past 5 years. Need Notice of Hearing. Need proof of personal service of the Notice of Hearing along with a copy of the petition or Consent and Waiver of Notice or Declaration of Due Diligence on: <ol style="list-style-type: none"> Dominic Equarte (father) Christine Cook (mother) Dominique Equarte (minor) Need proof of service of the Notice of Hearing along with a copy of the Petition or Consent and Waiver of Notice or Declaration of Due Diligence on: <ol style="list-style-type: none"> Phyllis Williams (paternal grandmother) Paternal grandfather Maternal grandparents Quentssah Equarte (sister)
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input type="checkbox"/>	Notice of Hrg X		
<input type="checkbox"/>	Aff.Mail X		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv. X		
<input checked="" type="checkbox"/>	Conf. Screen		
<input checked="" type="checkbox"/>	Letters		
<input checked="" type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input checked="" type="checkbox"/>	DSS Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input checked="" type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
		<p>Reviewed by: KT</p> <p>Reviewed on: 10/25/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 18 – Equarte</p>	

Petition for Appointment of Temporary Conservator of the Person (Prob. C. 2250)

Age: 86 years		GENERAL HEARING 12/3/2013		NEEDS/PROBLEMS/COMMENTS:		
		<p>MARKISHA S. WOODS, granddaughter, is petitioner and requests appointment as temporary conservator of the person.</p> <p>Petitioner states the proposed conservatee is diagnosed with dementia. She was last known to be hospitalized in the I.C.U. at St. Agnes Medical Center. Her grandson, Homer Shephard, had her complete a medical Power of Attorney after she was diagnosed with dementia, and the hospital is honoring the document. No one is allowed to visit or check on the proposed conservatee without the consent, approval and password of Mr. Shephard. Petitioner, along with several other grandchildren and the proposed conservatee's four daughters would like to visit with her but have been unable to do so. The family is concerned that she will not survive and at the very least would like to have the opportunity to say goodbye to her and to visit her in the hospital.</p> <p>Court Investigator Julie Negrete's Report filed on 10/23/13</p>		<ol style="list-style-type: none"> 1. Need Notice of Hearing. 2. Need proof of personal service of the Notice of Hearing along with a copy of the temporary petition on: <ol style="list-style-type: none"> a. Lillian Marie Ellis (proposed conservatee) 3. Need proof of service of the Notice of Hearing along with a copy of the temporary petition on: <ol style="list-style-type: none"> a. Homer Shephard (grandson) b. Margo Ellis (daughter) c. Alice Franklin (daughter) d. Karen Oliver (daughter) e. Pamela Williams (daughter) f. Latoya Gibson (granddaughter) g. Jonathan Thompson (grandson) h. Dale Ellis (grandson) i. Lekaya Brown (granddaughter) j. Kendra Stokes (granddaughter) k. Kendrick Stokes (grandson) l. James Oliver (grandson) m. Javari Woods (grandson) 		
Cont. from						
	Aff.Sub.Wit.					
✓	Verified					
	Inventory					
	PTC					
	Not.Cred.					
	Notice of Hrg					X
	Aff.Mail					X
	Aff.Pub.					
	Sp.Ntc.					
	Pers.Serv.					X
✓	Conf. Screen					
✓	Letters					
✓	Duties/Supp					
	Objections					
	Video Receipt					
✓	CI Report					
	9202					
✓	Order					
	Aff. Posting					
	Status Rpt					
	UCCJEA					
	Citation					
	FTB Notice					
		Reviewed by: KT				
		Reviewed on: 10/25/13				
		Updates:				
		Recommendation:				
		File 19 – Ellis				

1A The Cenci Family Trust (Trust)**Case No. 10CEPR00244****Atty Denning, Stephen M. (for Richard G. Cenci – Petitioner)****Atty Sullivan, Robert L (for Bruce D. Bickel – Trustee)****Atty Tekunoff, Daniel J. (for Maike Cenci, Spouse of Respondent Herman Cenci)****Atty Motsenbocker, Gary L (for Terese Cenci McGee)****Amended Petition to Enforce Judgment Against Trust Beneficiaries [Prob. C. 17000, et seq.]**

		NEEDS/PROBLEMS/COMMENTS: <u>Note:</u> This matter will be heard at 10am <u>Continued from 9-9-13</u> <u>Note:</u> Examiner Notes are not provided for this matter; however, the following history is provided: <u>Minute Order 6-25-13 (hearing on Richard G. Cenci's original petition):</u> No distribution until Further order of Court. Mr. Sullivan clarifies a clerical error in objection filed. He referenced PC 15306 and it should be referenced to PC 15306.5. All objections and any additional pleadings need to be filed by 8/19/13. Mr. Sullivan will file accounting by 7/25/13 and will be set on 9/9/13 @ 10am. Accounting and this Petition to be heard together.
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FTB Notice		
Reviewed by: skc		
Reviewed on: 10-24-13		
Updates:		
Recommendation:		
File 1A – Cenci		

1A

Notice of Motion and Motion for Earnings Withholding Order on Spouse's Community Property Wages

		RICHARD G. CENCI , Trustee of the Herman R. Cenci Family (Bypass) Trust, is Petitioner and Judgment Creditor.	NEEDS/PROBLEMS/COMMENTS: Note: This matter will be heard at 10am Continued from 9-9-13 Note: Examiner Notes are not updated for this matter.
		Petitioner states Defendant Herman Francis Cenci and Maike Cenci were married at the time of the judgment; therefore, Maike Cenci is also liable for this debt. Although there is no decided case under California Law, every treatise and commentary on the Enforcement of Judgments Law (EJL) <i>[cites provided]</i> concur: Community property is liable for the judgment, and the wages of the non-debtor spouse are reached by this same noticed motion procedure. The earnings of both spouses during marriage are community property.	
Cont. from 062513, 090913		Petitioner states it is important to keep in mind what is actually being sought by a motion for court order for an earnings withholding order on the wages of a non-debtor spouse. The aim is not to make the spouse a judgment debtor; the aim is to apply a particular form of community property to the judgment.	
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	Citation		
	FTB Notice		
		Declaration of Maike Cenci in Opposition to Motion for Earnings Withholding Order on Spouse's Community Property Wages; and Memorandum of Points and Authority in Opposition to Motion for Earnings Withholding Order on Spouse's Community Property Wages were filed 6-24-13 by Maike Cenci.	
		Maike Cenci states the address on Bay View Drive in Manhattan Beach, CA, has not been her or her husband's address since Feb. 2010. A PO Box in Manhattan Beach is provided as a mailing address, and Mrs. Cenci states that some relatives have been aware that they moved and had a new mailing address.	
		Maike Cenci states it is her understanding that papers have been filed with the Court seeking to withhold her wages. She never received service of such papers. In mid-June, her sister-in-law Teres Ann Cenci McGee, forwarded her a copy of the motion, but it was blank where the hearing date should be. She has never been provided with any other documents in this legal proceeding.	
		Because she has not had enough time to prepare for hearing and has not received proper notice and service, Mrs. Cenci asks the Court to deny the motion and require the paperwork to be properly served and noticed.	
		See Memorandum of Points and Authorities.	
			Reviewed by: skc
			Reviewed on: 10-24-13
			Updates:
			Recommendation:
			File 1B – Cenci

**First and Final Account and Report of Trustee and Petition for Its Settlement;
Petition for Instructions Regarding Final Distribution of the Trust Estate [Prob. C.
17200 & 16062]**

Esther Cenci		BRUCE D. BICKEL , Successor Trustee of the Cenci Family Trust of 1992 Survivor's Trust, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
DOD: 8-31-11			
Cont. from 090913		Account period: 9-16-10 through 6-30-13	
	Aff.Sub.Wit.	Accounting: \$645,510.55	
		Beginning POH: \$541,676.00	
		Ending POH: \$305,266.37 (per Supplement)	
✓	Verified	(Property on hand at end of account period includes \$111,351.60 cash, 1931 Packard 840 Deluxe Convertible Coupe valued at \$208,300.00, and various furniture, furnishings and personal effects, which is not appraised.)	Note: This matter will be heard at 10am
	Inventory		Continued from 9-9-13
	PTC		
	Not.Cred.		Note: Bruce Bickel was appointed by Esther Cenci as sole Trustee of the Survivor's Trust by the 6-24-10 amendment to the Survivor's Trust; however, he did not take possession of assets until 9-16-10.
✓	Notice of Hrg		
✓	Aff.Mail	w/o	
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
✓	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order	X	
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
		<p>Petitioner states that pursuant to the Trust Instrument, after several enumerated pecuniary bequests, the residue of the Survivor's Trust is distributable to Esther Cenci's four surviving children in equal shares. However, the Trust provides that Herman Francis Cenci's share should be reduced by \$12,000, and the interest of Terese Ann Cenci McGee is subject to a \$50,000 charge levied by Judge Donald S. Black in his opinion dated 5-23-12.</p> <p>Petitioner requests instruction with respect to the personal property held in the Trust Estate as follows:</p> <p>a) Because of the contentious history among beneficiaries, the Trustee does not believe that the 1931 Packard should be distributed in kind making them tenants in common. The Trustee respectfully submits that it would be more prudent to sell it and distribute the cash to the beneficiaries;</p> <p>b) The Trustee also respectfully submits that it would be more prudent to sell the tangible personal property of the Trust Estate at an estate sale and distribute the cash to the beneficiaries.</p> <p>Petitioner also requests instruction from the Court regarding distribution of the Trust Estate after payment of the specific cash bequests from the Survivor's Trust:</p> <p align="center"><u>SEE ADDITIONAL PAGES</u></p>	<p>Reviewed by: skc</p> <p>Reviewed on: 10-24-13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 1C – Cenci</p>

Petitioner also requests instruction from the Court regarding distribution of the Trust Estate after payment of the specific cash bequests from the Survivor's Trust:

- a) A judgment has been entered against two beneficiaries, Terese Ann Cenci McGee and Herman Francis Cenci, in a separate matter 10CEPR00244. In this matter, Richard Cenci asserted claims against them for financial elder abuse and breach of fiduciary duty and sought damages. After trial, a judgment was entered against Terese Ann Cenci McGee and Herman Francis Cenci in this matter for \$438,600 to the Bypass Trust and \$236,687.40 to the Survivor's Trust. Judge Black also charged the amount of \$50,000 against Terese Ann Cenci McGee's interest in the Survivor's Trust.

Richard Cenci filed a petition on 5-8-13 to enforce judgment against the beneficiaries, which requests to have their entire shares paid to Richard Cenci in satisfaction of the judgment. The Trustee objected to the petition on 6-20-13, alleging that the trust is not in a position to be presently distributed, correcting the purported list of subtrust assets alleged in the petition, and pointing out that the amounts sought were excessive and recovery was limited by California law and the Trust Instrument's spendthrift provision.

[Examiner's Note: Page 2A of this calendar is Richard Cenci's Amended Petition.]

Petitioner seeks instruction regarding whether he can hold the distributive shares of Terese Ann Cenci McGee and Herman Francis Cenci in trust pursuant to the instructions contained in the spendthrift clause of the Trust. Clause and discussion provided.

- b) Trustee seeks instruction from the Court as to how to treat the charge of \$50,000 against Terese Ann Cenci McGee's interest in the Survivor's Trust. Pursuant to Judge Black's opinion, it would appear that the charge should be applied in reduction of her distributive share and become part of the residue of the Trust Estate. Since she has a right to distribution of one-fourth of the residue, she would therefore be entitled to one-fourth of the charge. The Trustee respectfully requests instructions on how this charge is to be treated in connection with the final distribution.

Petitioner prays for an order:

1. Settling, allowing, and approving the Trustee's First and Final Account as filed;
2. Determining that all acts and transactions of the Trustee relating to matters reflected in the First and Final Account and Report are ratified, confirmed and approved;
3. Instructing the Trustee whether he should sell the Packard automobile and distribute the cash proceeds to the beneficiaries;
4. Instructing the Trustee whether he should sell the tangible personal property in the Trust Estate and distribute the cash proceeds to the beneficiaries;
5. Instructing the Trustee whether he should hold the distributive shares of Terese Ann Cenci McGee and Herman Francis Cenci further in trust pursuant to the spendthrift clause of the Trust Instrument (notwithstanding the entry of the judgment rendered against Terese Ann Cenci McGee \$286,687.40 and Herman Francis Cenci \$438,600.00);
6. Instructing the Trustee how to apply the \$50,000 charge against Terese Ann Cenci McGee in connection with the Trust Estate; and
7. Granting such other and further relief as the Court may deem proper.

SEE ADDITIONAL PAGES

Page 3

A Supplemental Account and Report of Trustee was filed 9-5-13. Trustee Bruce Bickel states that since the date of the accounting, he has made five additional disbursements set forth on Exhibit A and the new Property on Hand is stated in Exhibit B. This augments Schedule F of the Accounting to add the promissory note listed as Item 1 of Schedule A to the Accounting. This item is a promissory note originally executed by Paul D. Willingham in favor of the trust in the original principal sum of \$92,500 dated 4-30-92, secured by a short form deed of trust and assignment of rents dated 6-1-07 and recorded 6-22-07.

The promissory note and the 2007 Deed of Trust became assets of the trust prior to the trustee's appointment as trustee. The trustee has been unable to locate the promissory note, but has been able to locate a Modification of Promissory Note dated 2-20-09 between **Terese Cenci McGee as Trustee of the Cenci Family Trust** and **Jebian Construction, Inc.** This document recites the history of the promissory note. See Exhibits C and D.

As set forth in the Modification of Promissory Note, the parties agreed that as of 2-20-09 the note had an unpaid principal balance of \$122,500. The Modification of Promissory Note contains the newly agreed provisions for payment and the promise of **Antonio Jebian** (the then current payor of the note) to personally guarantee the note.

On 2-17-09, Terese M. Cenci McGee as trustee executed the Subordination Agreement subordinating the promissory note to a \$120,000 construction loan made by **Mid-Valley Services, Inc.** Exhibit E.

The real property which is the subject of the 2007 Deed of Trust was foreclosed upon by tow Trustee's Deeds Upon Sale (Exhibits F and G).

Based upon the facts which the trustee has been able to determine, the trustee is informed, believes, and therefore alleges that:

- a) The remaining unpaid balance of the promissory note is \$122,500 plus interest accrued thereon since 2-20-09;
- b) The promissory note was acquired by the Trust as payment (or partial payment) for the sale by the trust to Paul D. Willingham of the certain parcels of real property (description provided).

As such, the promissory note is a purchase money note secured by a deed of trust which is entitled to protection of Civil Code §580b. When the deed of trust securing the promissory note was subordinated, it appears that the bar of §580b ceases to apply. Authority cited.

As a result, the trust presently holds an unsecured promissory note in the principal sum of \$122,500 plus interest accrued since 1-20-09 and under the Subordination Agreement, **Jebian Construction, Inc.**, has agreed to guarantee payment of the note (although no written guarantee has been located by the trustee).

Because of the uncertain nature of the promissory note and its legal and procedural history, the trustee, not wanting to make any representations as to the true value or its collectability, has valued it at zero for purposes of this accounting.

The trustee proposes to distribute the promissory note "as is" to the four beneficiaries, each as to an undivided 25% interest. Accordingly, the Trustee hereby supplements the Petition for Instructions and request that the Court instruct the Trustee to distribute the promissory note as set forth above without any warranty or representation as to the value or its collectability.

Atty Motsenbocker, Gary L (for Terese Cenci McGee – Petitioner)

Atty Denning, Stephen M. (for Richard G. Cenci – Objector)

Petition Requesting Accounting by Trustee of the Cenci Bypass Trust [Prob. C. 16060, 16061, 16062; Evid. C. 452 & 453]

		TERES CENCI MCGEE is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Petitioner requests that RICHARD G. CENCI , Trustee Of the CENCI FAMILY BYPASS TRUST , render an account of his acts and actions of said trust. Petitioner states:	
	Aff.Sub.Wit.	<ol style="list-style-type: none"> 1. She is the daughter of the Settlers Herman R. Cenci and Esther C. Cenci and is therefore an interested person. 2. Richard Cenci, Successor Trustee of the Cenci Family Bypass Trust, has served in that capacity since fall 2010 and has not rendered an account and report in the intervening three years. 3. Petitioner requests the Court take judicial notice of all pleadings and proceedings contained in the court record, including but not limited to the multiple and various copies of the Trustors' initial trust and the amendments thereto pursuant to Eid. C. §452. 4. In accord with the provisions of the first amendment to the trust dated 2-18-04, Petitioner requested an account in writing, which was hand delivered to the trustee's attorney on or about 5-8-13. To date, Petitioner has not received acknowledgment of the request or the mandated account in response. Petitioner is entitled to and the trustee is duty bound to render an accounting within 90 days of receipt of written request. As of the filing of this petition, the trustee has refused to render account or respond. 	Note: This matter will be heard at 10am
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	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg		
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✓	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation	Petitioner request that the Court order that:	
	FTB Notice	<ol style="list-style-type: none"> 1. Richard G. Cenci be ordered to render an accounting within 90 days of this hearing; 2. For such attorney fees allowed under the law; 3. For costs of suit incurred herein; and 4. For all other proper relief the Court deems proper under the circumstances. 	
		Richard G. Cenci filed his Opposition on 10-24-13. See additional pages.	Reviewed by: skc Reviewed on: 10-24-13 Updates: Recommendation: File 1D – Cenci

Richard G. Cenci states the petition should be denied for the following reasons:

- 1. Petitioner is not a beneficiary to whom income or principal is required or authorized to be currently distributed, and Respondent is not required to account to her. Probate Code §16062.**
- 2. Petitioner did not bring her petition pursuant to §17200(b)(7). *Esslinger v. Cummins, supra*, at page 526.**
- 3. Because Petitioner owes the family trust more than she would reasonably be expected to receive on distribution from it, Petitioner has no relevant interest in the family trust.**
- 4. The probate court has discretion to grant or deny a petition for an order compelling a trustee to account. Because Petitioner committed elder financial abuse and breached her fiduciary duty to her mother that resulted in a significant loss to her, Petitioner has no right to an accounting of the family trust, and because of her actions has no interest in the family trust to protect.**

See Opposition for details.

Second Amended Petition for: (1) Removal of Mary M. Davis as Executor of the Estate;
 (2) Compelling Account and Report of Administration of Estate; (3) Appointment of Lynette
 Lucille Duston and Warren Leslie Davis as Successor Co-Executors of Estate.
 [Probate Code §§8420, 8421, 8500, 8501, 8502, 8800, 8804, 10950, 12200, 12204, and 12205]

DOD: 7-9-10		<p>LYNETTE LUCILLE DUSTON and WARREN LESLIE DAVIS, Daughter and Son of the Decedent, are Petitioners.</p> <p>On 10-18-10, Decedent's Will dated 12-7-04 was admitted to probate and MARY M. DAVIS, Surviving Spouse, was appointed Executor with Full IAEA without bond on 10-18-10. Letters issued on 10-19-10.</p> <p>Petitioners state more than 18 months have elapsed since Letters were issued and Mary has neither filed an account nor report of status of administration. Petitioners object to the continuation of Mary as the personal representative and seek to remove her as executor for the following reasons:</p> <ul style="list-style-type: none"> • §8502(c). Mary has wrongfully neglected the estate, or has long neglected to perform any act as personal representative. On 3-17-11, a substitution of attorney was filed in the proceeding. From that date until the original petition for removal was filed on 6-26-12, there had been no court action taken in this matter. Since then, the only action taken was to file another substitution of attorney and oppose the petition for removal. • §8804(b). Mary has failed to file an inventory and appraisal within the prescribed time. • §12200. Mary has failed to render a report of the status of the administration. • §8502(a). Mary has wasted, embezzled, mismanaged, and committed a fraud on the estate. Mary has, <i>inter alia</i>, admitted during a deposition that she had liquidated assets of the Decedent's estate which were specific bequests to one of the Petitioners to pay for her attorneys' fees and costs in her two civil actions against Petitioners. • §8502(b). Mary is incapable of properly executing the duties of her office, or is otherwise not qualified for appointment as personal representative. Mary is 86 years old and has made claims for elder abuse in a lawsuit she filed against one of the Petitioners and has made representations that she is susceptible to undue influence. <p>Petitioners cite authority in addition to the statutory references above regarding the Court's power to remove a personal representative for other cause, for example, adverse interest or hostile acts, and state removal of Mary as executor is necessary to protect the Decedent's estate and its heirs.</p> <p style="text-align: center;">SEE ADDITIONAL PAGES</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from</p> <ul style="list-style-type: none"> • 1-22-13 • 3-8-13 • 5-10-13 • 6-28-13 • 7-29-13 • 10-1-13 <p>Note: Page 1B is Mary M. Davis' First and Final Account and Report of Executor and Petition For Its Settlement; For Allowance of Ordinary Executor Commissions, Ordinary and Extraordinary Attorneys' Fees and For Final Distribution filed 6-14-13.</p> <p>Note: This matter is also set for Settlement Conference (Examiner Notes not prepared for Settlement Conference).</p> <p>Reviewed by: skc</p> <p>Reviewed on: 10-24-13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 1A - Davis</p>	
Cont. from 012213, 030813, 051013, 062813, 072913, 100113				
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<input type="checkbox"/>	Letters			
<input type="checkbox"/>	Duties/Supp			
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<input type="checkbox"/>	FTB Notice			

Page 2

Petitioners state it is also proper for this Court to order Mary to account which shall include both a financial statement and report of administration of the estate, and specifically show the condition of the estate. Furthermore, it is proper for the Court to reduce compensation of Mary and her attorneys by an appropriate amount.

Petitioners state they are entitled to appointment as personal representatives of the estate because they were nominated as successor co-executors in the event Mary shall for any reason fail to qualify or cease to act as executor.

It is hereby requested that this Court appoint Petitioners as successor co-executors to serve without bond and with full IAEA.

Petitioners pray as follows:

1. That citation issue to Mary M. Davis to show cause why she should not be removed as personal representative;
2. The Court forthwith suspend the powers of Mary M. Davis as personal representative and revoke the Letters issued 10-18-10;
3. For an order to appoint Petitioners as personal representatives with Full IAEA without bond;
4. For an order that Mary M. Davis file an account of the administration in accordance with Probate Code § 10900 and specify a reasonable time within which the account must be filed, which Petitioners suggest should be no later than 60 days from the date of her removal;
5. For an order that Mary M. Davis surrender all property in her possession belonging to the estate of the Decedent to the duly appointed and qualified successor co-executors;
6. For attorney's fees and costs of suit incurred herein; and
7. For such other orders and further relief as the Court deems just and proper.

SEE ADDITIONAL PAGES

Mary M. Davis' Fourth Report of Status of Administration of Estate filed 5-6-13 states: The Final I&A was filed concurrently with this status report. Executor has retained Robert L. Sullivan of McCormick Barstow to associate in as co-counsel with Farley Law Firm to assist with the filing and account and any final matters to close the estate.

Since the last status hearing, two new issues requiring the Court's assistance have emerged:

1. **Deposition:** In the recently settled partnership litigation against Executor, Executor was subjected to a grueling deposition by Petitioners' counsel, Dias Law Firm. As such, the anticipation of another deposition has been the source of anxiety and stress to the Executor.

Although Executor and counsel do not contest Petitioners' right to depose Executor, in an effort to shield Executor from improper and unnecessary stress and inquiries, counsel has sought to narrow the parameters of the deposition, without success. Correspondence attached.

Contrary to Petitioners' assertions that Executor is seeking to avoid her deposition, Executor seeks to narrow the scope of her deposition to disallow Peittioners' fishing expedition and inquiries that are irrelevant and premature. The Executor's deposition after the filing of an account and report, barring inquiries into incompetency and those matters better directed to the accountant, would serve to effectuate a more orderly, productive, and cost effective deposition. Executor respectfully requests the Court's determination accordingly.

2. **Antiques:** I&A Partial #2 filed 2-13-13 includes Decedent's one-half community property interest in an antique table and chair and other furniture, furnishings and personal effects for a total of \$15,000 (\$7,500 to Decedent's interest). Petitioner contend that the I&A does not adequately describe and account for these items. After correspondence, and although Executor believes the I&A adequately includes these items, Executor is in the process of retaining the services of an appraiser to inventory and appraise the antiques, which is expected the last week of June 2013. Therefore, until the Supplemental I&A can be submitted to the Probate Referee and appraisal is complete, a final account cannot be filed.

Executor therefore respectfully states that good cause exists to:

- 1) Extend the time to file an account to a date after receipt of the Supplemental I&A;
- 2) Disallow inquiries at Executor's deposition regarding, seeking to determine, and otherwise addressing, mentioning, or referring to the Executor's competency, pending further order of the Court;
- 3) Disallow inquiries regarding the legal services rendered to the Executor pending further order of the Court; and
- 4) The Executor's deposition is to be scheduled to a date after the filing of the account and report in this matter.

UPDATE: Page 1B is Mary M. Davis' Amended First and Final Account. Also on calendar is continued Settlement Conference. Examiner Notes are not provided for Settlement Conference.

DOD: 7-9-10		MARY M. DAVIS , Surviving Spouse and Executor with Full IAEA without bond, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: <u>SEE ADDITIONAL PAGES</u>
Cont. from 100113		Account period: 7-10-10 through 6-30-13	
Aff.Sub.Wit.		Accounting: \$2,030,762.03	
<input checked="" type="checkbox"/>	Verified	Beginning POH: \$1,909,404.65	
<input checked="" type="checkbox"/>	Inventory	Ending POH: \$1,909,287.65 consisting of:	
<input checked="" type="checkbox"/>	PTC	<ul style="list-style-type: none"> Decedent's 33.33% partnership interest in Whitney Oaks Dairy, Decedent's 50% community property interest in various real and personal property, cash in the amount of \$3,258.90 Unsecured Self-cancelling Installment Note to Fred and Mary Davis by Whitney Oaks Dairy (Decedent's 50% valued at \$808,496.50) POH Fair Market Value is \$1,557,629.65 	
<input checked="" type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
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<input checked="" type="checkbox"/>	FTB Notice	<p>Executor (Statutory): \$32,466.51 Attorney Robert Gin (Statutory): \$2,532.65 Attorneys Michael Farley and Robert L. Sullivan, Jr. (Statutory): \$29,933.86</p> <p>Petitioner states that in light of the modifications to the I&A (Partial No. 2 – Corrected – Supplemental) the statutory executor commissions and attorneys' fees have been recalculated.</p> <p>Attorneys (Extraordinary): The original petition requested authority to pay \$5,412.00 to McCormick Barstow as reasonable compensation for extraordinary legal services rendered in the administration of the estate. Petitioner states that since the date of the original petition, additional extraordinary legal services have been rendered. A separate declaration will be filed.</p> <p style="text-align: center;"><u>SEE ADDITIONAL PAGES</u></p>	

Reviewed by: skc

Reviewed on:
10-24-13

Updates:

Recommendation:

File 1C – Davis

Petitioner states: In response to the objections to the original account, the following modifications have been made:

- The accounting is updated through 7-30-13
- Receipts include a reimbursement to the estate of \$237.70, which represents the estate's portion of the monthly insurance premium paid after the date of the final performance of the settlement in the Cayucos litigation (12-4-12) through the end date of the original account (5-15-13)
- Schedule A-1 Advances to Estate by Executor has been amended as follows:
 - to reflect actual fees and costs incurred with Dowling Aaron in the Cayucos litigation and advanced by Mary on behalf of the estate;
 - The classification of payment to McCormick Barstow of \$2,100 has been modified to show the disbursement as being related to the estate's trust and partnership consultation;
 - Declaration of Michael L. Farley in support of request for extraordinary fees is filed;
 - Schedule A-1 is amended to include additional advances made by the Executor for costs of administration;

Note: Declaration of Michael L. Farley indicates fees of **\$19,747.25** in connection with the Cayucos litigation and **\$48,787.13** in connection with the petition to remove the executor.

- Disbursements now excludes a charge to the estate for insurance premiums to Cayucos property after 12-4-12;
- POH has been amended to include the estate's interest in additional furniture, furnishings and antiques, and the self-cancelling installment note, as described.

Petitioner prays for the relief prayed for in the original petition, as modified by the foregoing.

Note: Petitioner also filed Supplement to Reply to Objection on 9-11-13, which refers to Objections filed 7-8-13 in connection with the original accounting petition. However, pursuant to #1 below, that petition, including the objections thereto, are not currently before the Court, as this amended petition replaces and supersedes that petition. Therefore, Examiner has not reviewed this document. See file.

NEEDS/PROBLEMS/COMMENTS:

1. **Need clarification:** This petition was filed as an amended petition, which replaces and supersedes the original. Therefore, reference to the original petition, which is no longer before the Court, is not appropriate. The Court may require clarification of the prayer and proposed distribution, or may require complete amendment.
2. **Declaration of Michael L. Farley in support of extraordinary fees and costs does not appear to comply with applicable law, which requires itemization.** The Court may require clarification.
3. **Need proposed order.** See Local Rules.

Note: Examiner Notes from the hearing on the original petition on 7-29-13 were provided to the judge for reference. The original petition was filed 6-14-13 and is located in the "A" volume of the case file. (At this point, there are three volumes on 10CEPR00810: Main, A, and B.)